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DEPARTMENT OF  
WATER RESOURCES

1<sup>ST</sup> DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED

2007 DEC 17 PM 3 16

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

) Subcase nos: See Exhibit A  
) (Portneuf River Decrees)  
)  
) ORDER DISMISSING MOTION TO  
) ALTER OR AMEND PARTIAL  
) DECREES AND AMENDING PARTIAL  
) DECREES TO INCLUDE ADDENDUM  
) AGREEMENT TO PRIOR PORTNEUF  
) RIVER SETTLEMENT AGREEMENT

I. PROCEDURAL BACKGROUND AND FACTS

*Partial Decrees* for the thirty-four (34) above-captioned water rights were previously issued pursuant to a comprehensive settlement agreement entered into on March 23, 2005, referred to as the *Portneuf River Settlement Agreement* ("Agreement").

On March 23, 2006, two of the signatories to the *Agreement*, Lava Irrigation Co. Ltd. and Dempsey Irrigation Co., motioned the Court to alter or amend the *Partial Decrees*. The *Motion* alleged that certain assumptions used in arriving at the settlement were later determined to be erroneous. At the request of the movants the hearing set on the *Motion* was ultimately stayed to allow the parties time to attempt to renegotiate the part of the *Agreement* at issue. Throughout the course of the negotiations the Court held periodic status conferences. All parties to the *Agreement* were provided notice of the status conference hearings.

On December 6, 2007, in resolution of the *Motion*, the parties lodged two separate amendments ("*Addendum Agreement*") to the *Agreement*. On December 11, 2007, pursuant to notice to all parties, the Court held a hearing on the *Addendum Agreement*.

ORDER DISMISSING MOTION TO ALTER OR AMEND PARTIAL DECREES AND  
AMENDING PARTIAL DECREES TO INCLUDE ADDENDUM AGREEMENT TO PRIOR  
PORTNEUF RIVER SETTLEMENT AGREEMENT

Lava Irrigation Co. Ltd. and Dempsey Irrigation. Co. agreed to withdraw their *Motion* conditioned on the Court's approval of the *Addendum Agreement*. Three parties, Jeffery F. Harris, Nathan Casperson and Roben Hull, were not signatories to the *Addendum Agreement*. The basis for their not signing was not stated other than the parties could not be located despite receiving notice

The Court, in accepting the *Addendum Agreement*, makes the following findings. All parties, including Jeffery F. Harris, Nathan Casperson and Roben Hull, were provided notice of the *Addendum Agreement* and the hearing thereon, and of all previous status hearings pertaining to the progress of the settlement. Jeffery F. Harris, Nathan Casperson and Roben Hull did not appear at the hearing in opposition to the Court's acceptance of the *Addendum Agreement* nor did any other party. Finally, the terms of the *Addendum Agreement* only stand to benefit the water rights of Jeffery F. Harris, Nathan Casperson and Roben Hull based on their location on the Portneuf River.

On December 14, 2007, Lava Irrigation Co. Ltd. and Dempsey Irrigation. Co. filed a *Motion to Withdraw Movants Lava Irrigation Company, Limited and Dempsey Irrigating Company's Motion to Alter or Amend Order of Partial Decrees on Portneuf River*.

## II. ORDER

THEREFORE, IT IS ORDERED, that the *Motion to Withdraw Motion to Alter or Amend Partial Decrees* is GRANTED and the *Motion to Alter or Amend Partial Decrees* is DISMISSED.

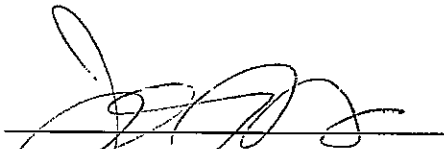
IT IS FURTHER HEREBY ORDERED, that the above-captioned water rights are hereby amended to incorporate the attached *Addendum Agreement* into the March 23, 2005, *Portneuf River Settlement Agreement* and the *Partial Decrees* listed in Exhibit A.

**ORDER DISMISSING MOTION TO ALTER OR AMEND PARTIAL DECREES AND  
AMENDING PARTIAL DECREES TO INCLUDE ADDENDUM AGREEMENT TO PRIOR  
PORTNEUF RIVER SETTLEMENT AGREEMENT**

### III. RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for the delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Dated December 17, 2007

  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin

**ORDER DISMISSING MOTION TO ALTER OR AMEND PARTIAL DECREES AND  
AMENDING PARTIAL DECREES TO INCLUDE ADDENDUM AGREEMENT TO PRIOR  
PORTNEUF RIVER SETTLEMENT AGREEMENT**

EXHIBIT A (PORTNEUF RIVER DECREES)

Subcase Nos:

29-00052  
29-00053  
29-00589  
29-04060  
29-04364  
29-04467  
29-10816  
29-11277  
29-11681  
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29-13584  
29-13586

ORDER AMENDING PARTIAL DECREES TO INCLUDE ADDENDUM TO PRIOR PORTNEUF  
RIVER SETTLEMENT AGREEMENT

EXHIBIT A

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER DISMISSING MOTION TO ALTER OR AMEND PARTIAL DECREE AND AMENDING PARTIAL DECREES was mailed on December 17, 2007, with sufficient first-class postage to the following:

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EVELEE HILL RUSH  
JASON AND AMBER HALL  
JASON HALL  
JEFFERY F HARRIS  
LAVA IRRIGATION CO INC  
LAVA IRRIGATION COMPANY  
MAX W HALL  
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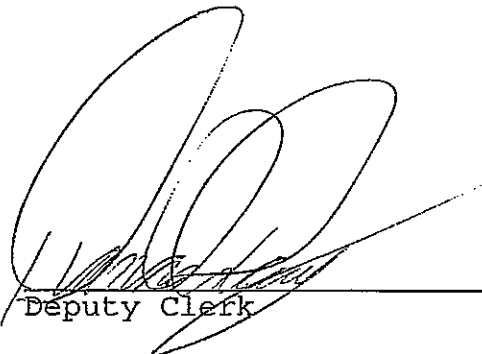
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This mailing does not include  
Addendum Agreement. Copies of  
Agreement are on file with the  
SRBA Court



ORDER

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FILE COPY FOR 00118

Deputy Clerk